

BOC InterLATA PIC Negotiations. AT&T believes that the Order ignores evidence which shows that BOCs will abuse their position if they are allowed to negotiate with location owners regarding the interLATA PIC. Nevertheless, even under the existing rules, two points require clarification. First, the Commission should clarify that nothing in the statute or the new rules allows location owners to terminate contracts with carriers regarding the interLATA PIC selection, regardless of the date such agreements were executed. Section 276(b)(3) requires BOCs -- and all LECs -- to honor contracts between carriers and location owners that were executed prior to February 8, 1996. This means that a LEC which had payphones installed at a location prior to that time may not interfere with the carrier's contractual rights by removing its phones during the term of the LEC's then-existing payphone placement contract with the location owner. If a location owner has executed an agreement with a carrier for the PIC selection after that date, the LEC is not bound to keep its phones at the location owner's premises in order to honor the location owner's commitment to the carrier. The Commission should explicitly clarify, however, that a LEC's right to remove its phones in such instance does not allow it to interfere in the contractual relationship between a location owner and a carrier. Thus, even if a LEC chooses to remove its phones in cases where it is permissible to do so, the LEC may not change the location owner's obligations with respect to its contracted primary carrier.

Second, it appears that some BOCs have been negotiating with location owners regarding the PIC even though they do not yet have approved CEI plans.³⁴ However, the

³⁴ For example, it has been reported that representatives of BellSouth are already attempting to negotiate 0+ commission agreements that include interLATA calling with some

(footnote continued on following page)

Order (¶ 239) expressly states that BOCs may not negotiate with location owners regarding an interLATA PIC until it has an approved CEI plan. Thus, the Commission should clarify that contracts between BOCs and location owners that reference interLATA PIC choices but are executed prior to the approval of the BOC's CEI plan are void and unenforceable against the location owner.

PSP Duty to Pass Information Digits. Even though the Order (¶ 66) requires PSPs to transmit information digits in connection with calls from their payphones, it does not specifically provide that PSPs who do not forward such information will be ineligible for per-call compensation. Such data are critical to carriers for many purposes, including tracking and fraud prevention. The Commission should explicitly make the provision of such information a precondition for PSPs seeking compensation.

State Dial-Around Compensation Requirements. Pursuant to Section 276, the Order establishes a per-call compensation mechanism that applies to all calls from payphones, including intrastate calls. Nevertheless, several states have adopted dial-around compensation requirements for intrastate access code calls. Just as the Commission's rules here now supersede its interstate dial-around compensation requirements, the Commission should clarify that the rules adopted in this proceeding will supersede parallel state dial-around compensation requirements.

(footnote continued from previous page)

location owners. Moreover, some of those location owners have apparently been informed that BellSouth can handle in-region interLATA calling from its payphones as soon as November 1996.

LEC Access Charge Filings. The Order (§ 183) requires LECs to file tariffs in January, 1997 that will result in the removal of payphone subsidies from interstate access charges. In anticipation of these filings, the Commission should clarify how it expects the LECs to remove certain costs. In particular, the Commission should clarify that LECs must reduce their CCL rates by an amount equal to the additional Subscriber Line Charges that will be received from the LEC payphone entity. Any other result would retain existing payphone subsidies that the statute requires to be removed.

Conclusion

The Commission should reconsider its Order and adopt a per-call compensation rate that is based upon TSLRIC (or other forward-looking) costs. Creation of a TSLRIC-based system is the only way to assure that per-call compensation is "fair" to PSPs, carriers and consumers alike. Moreover, a "market-based" local coin rate is an excessive and unsuitable surrogate for per-call compensation, there is no likelihood that there would ever be an effective competitive "market" rate for local coin calls, and it is impossible to develop a single "market-based" per-call compensation rate for carriers that applies equally to access code and 800 subscriber calls. The Order's permanent rules for per-call compensation are also unadministrable and will subject carriers and consumers to significant possibilities of abuse.

The Commission must revise its interim compensation rules to require that LECs and smaller IXC's participate in compensating PSPs, because the rules in the Order are contrary to the statute, arbitrary and discriminatory against large IXC's. In addition, carriers should not be required to pay the exorbitant amount of \$45.85 in interim compensation for semi-public phones and low-revenue payphones making less than \$4 per day.

If the Commission eschews a cost-based compensation system in favor of a "market-based" system it must change the Order's payment rules, because no "market" system could possibly function if consumers are not clearly apprised of the costs. Therefore, the Commission should either require a "coin in the box" payment from all payphone users for all calls or adopt a payphone usage charge which establishes a direct relationship between PSPs and customers and involves carriers only as intermediaries. In all events, facilities-based carriers should not be required to be financially responsible for the payphone compensation obligations of resellers.

The Commission should also clarify: that the Order does not affect any contract between a carrier and a location owner, regardless of when it was executed; that any BOC contracts with location owners which affect the selection of a primary interLATA carrier and are executed before approval of the BOC's CEI plan are void; that PSPs must pass payphone information digits to carriers as a precondition for receiving per-call compensation; that the rules in the Order supersede state dial-around compensation requirements; and that LECs must reduce their CCL rates in an amount equal to the Subscriber Line Charges they receive from their affiliated payphone entities.

Respectfully submitted,

AT&T CORP.

By



Mark C. Rosenblum

Peter H. Jacoby

Richard H. Rubin

Its Attorneys

Room 3252I3

295 North Maple Avenue

Basking Ridge, New Jersey 07920

(908) 221-4481

October 21, 1996